



PATENT
57974-5004

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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TECH CENTER 1600/2000

In re patent application of:
Tor MCPARTLAND

Group Art Unit: 1617

Examiner: ROBINSON, A.

Serial No. 09/706,158

Filed: November 3, 2000

For: ANT SPRAY CONTAINING D-
LIMONENE AND METHODS OF
MAKING AND USING SAME

PRELIMINARY AMENDMENT

Applicant hereby submits the declaration of Tor McPartland, previously submitted in the parent application, to be considered in view of the claims of this continuation-in-part application. The declaration is submitted as evidence of novelty and non-obviousness.

The acceptance by the Organic Material Review Institute ("OMRI") of Applicant's product for use in organic production was significant for several reasons. First, OMRI had to define a new category, "plant extract pesticides," for identification of Applicant's insecticide composition. See Supplemental Declaration of Tor McPartland ("Supp. Decl."), ¶ 7. The fact that OMRI had to

define a new category for Applicant's product evidences the novelty of the product. There were no other plant extract pesticides approved for use in organic production by OMRI prior to Applicant's product. Supp. Decl., ¶ 7.

Second, OMRI's acceptance of Applicant's product was significant in that it boosted the sales of Applicant's product. Supp. Decl., ¶ 8. In 1998, prior to OMRI's acceptance, annual sales of Applicant's product were approximately \$39,000. Supp. Decl., ¶ 8. The following year, upon OMRI's approval, the sales increased six-fold, exceeding \$250,000. Supp. Decl., ¶ 8. The significant increase in sales was not a result of an increase in advertising, as the advertising campaign during 1998 and 1999 remained relatively static. Supp. Decl., ¶ 9. Rather, the commercial success of Applicant's product was a result of Applicant's ability to satisfy a long felt need for an insecticidal composition that is made of food-grade ingredients and can be used in organic production. Supp. Decl., ¶¶ 5, 6, 10 and 11.

In view of the foregoing remarks, it is believed that all pending claims are in condition for allowance. A Notice of allowance is respectfully requested. Should there be any questions regarding this application, the



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Examiner is invited to contact the undersigned attorney at the phone number
listed below.

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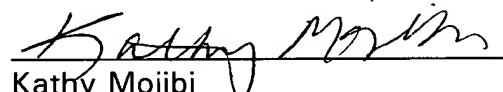
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Respectfully submitted,

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December 20, 2000

Date


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